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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,128	12/17/2001	Durward I. Faries, JR.	1322.0040C	4172

7590 11/02/2005

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EXAMINER

HAYES, MICHAEL J

ART UNIT PAPER NUMBER

3767

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/016,128	Applicant(s) FARIES, ET AL.	
	Examiner Michael J. Hayes	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-23 and 51-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-23 and 51-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 17 is rejected under 35 U.S.C. 102(e) as being anticipated by LENKER (US Patent No. 2002/0156451 A1). Lenker discloses a fluid cassette including line tubing having an inlet and outlet terminals, a plurality of tubing sections 164, 166 that are arranged adjacent to each other to allow opposing flow and heat transfer from one section to another. See fig.

Claims 17, 19, 20, 23, 51, 53, 56, 57, 58, 59, 60, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by IKEGAME et al. (US Patent No. 4,747,450). Ikegame discloses a fluid cassette having adjacent tubes that direct fluid flow in reverse directions through an intermediate section. The inlet and outlet portions are configured so as to be capable of being secured to an intravenous fluid line. The engagement member at 15 assists manipulation of the cassette. See figs. 3, 6, 9, and 8.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEGAME as applied to claims 17, in view of GONZALEZ. Ikegame discloses the claimed invention except for inlet and outlet extending tangentially and a conductive contact. Gonzalez teaches inlet and outlet extending tangentially and a conductive contact (figs. 2, 3, 16). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Gonzalez in the device of Ikegame in order to position the inlet and outlet near each other and to provide for an additional heat transfer surface to assist heat transfer when needed.

Claims 21, 22, 55, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEGAME in view of FORD et al. (US Patent No. 5,245,693). Ikegame discloses the claimed invention except for a fitting receiving a temperature sensor to measure the fluid temperature including a thermally conductive member disposed in the fitting. Ford discloses a fitting 170 receiving a temperature sensor 130 to measure the fluid temperature including a thermally conductive member disposed in the fitting (8:4-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings Ford of in the cassette of Ikegame in order to facilitate heating control of the heat exchanger.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DOBBS et al. (U.S. Patent No. 4,883,117) and RUPP (US Patent No. 1,847,573) show reverse spiral fluid paths in heat exchangers.

***Response to Arguments***

Applicant argues that Ikegame does not disclose inlet and outlet terminals configured for or securable to an intravenous line. The examiner disagrees because the Ikegame discloses tubing with terminals at 10 (see fig. 3). These terminals (i.e., the ends) are capable of being secured to an intravenous line. Applicant has not specifically recited structure in the claims that distinguishes from the prior art that is for connecting to intravenous lines. The prior art shows terminals that are capable of performing the recited functions.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

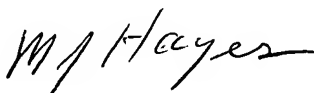
Art Unit: 3767

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (571) 272-4959. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons, can be contacted at (571) 272-4965. The fax number for submitting official papers is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjh  
31 October 2005

  
**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**